

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES CODY *et al.*, )  
Plaintiffs, )  
v. ) Case No. 4:17-cv-02707-AGF  
CITY OF ST. LOUIS, )  
Defendant. )

**PLAINTIFFS' MOTION TO AMEND THE CASE MANAGEMENT ORDER**

COME NOW Plaintiffs and for their Motion to Amend the Case Management Order state as follows:

1. On July 17, 2020 this Court entered an Order granting Plaintiffs' Motion to Compel Discovery and setting a deadline of forty-five days for Defendant to produce a large number of outstanding documents. (ECF No. 136 at 5).
2. Discovery currently closes, however, on August 25, 2020—six days *before* the outstanding discovery is due.
3. Plaintiffs require additional time to review the tens of thousands of pages of documents that are expected to be produced as a result of the Court's Order and that must be reviewed before Plaintiffs can conduct necessary 30(b)(6) and individual depositions of St. Louis City leaders. (*See* ECF No. 132-3 at 4-26).
4. Further, the parties have entered into tentative settlement negotiations. As a result, and in order to prevent incurring additional fees and costs, the parties agreed to cancel the scheduled deposition of one of Defendant's experts and to delay the other.

5. Similarly, the parties had agreed that Plaintiffs' expert James Balsamo, having completed his supplemental inspection with the exception of measuring air flow while MSI's air conditioning units are running and observing testing of the emergency generator, would again travel to the City of St. Louis from the State of Louisiana this past Spring when MSI's air conditioning units would be running to measure air flow, observe testing of the emergency generator, and be deposed. Given the current risks associated with the COVID-19 deposition, that did not happen, and it remains unclear when Mr. Balsamo will be able to safely travel to complete his inspection.

7. Given the need for additional time to review the outstanding documents defendant has been ordered to produce, the additional time needed for Mr. Balsamo to complete his inspection, and the start of potential settlement negotiations, Plaintiffs had raised with Defendant the possibility of filing a joint motion to amend the Case Management Order. Defendant indicated that it preferred to stay the proceedings altogether. Plaintiffs, however, were not willing to agree to stay the deadline for Defendant to produce the outstanding discovery documents required by this Court in its July 17, 2020 Order. As a result, Defendant filed a Motion to Stay (ECF No. 138) which is currently pending.

8. Plaintiffs are filing their Memorandum in Opposition to Defendant's Motion to Stay contemporaneous with this Motion to Amend the Case Management Order. Because a stay is unnecessary, and extension of the discovery, class certification and dispositive motion deadlines are sufficient to prevent any unnecessary expenses during settlement negotiations, Plaintiffs submit this motion in the alternative.

9. Plaintiffs request that the Court grant their Motion to Amend the Case Management Order and set the following deadlines:

- a. Discovery to be completed by November 24, 2020;
- b. Any motion for class certification to be filed by December 22, 2020, any response thereto to be filed no later than 21 days after the motion is filed, and any reply to be filed not later than 10 days thereafter;
- c. Any motions for summary judgment or motions for judgment on the pleadings to be filed no later than April 27, 2021, with responses to be filed no later than 28 days after the motion is filed and any reply to be filed no later than 14 days thereafter;
- d. Any *Daubert* motions to be filed no later than April 27, 2021;
- h. The trial be reset to October, 2021.

WHEREFORE, for all the foregoing reasons, Plaintiffs respectfully request that the deadlines in this case be extended as set forth in this Motion.

Respectfully submitted,

/s/ Jacqueline Kutnik-Bauder  
Jacqueline Kutnik-Bauder #45014 (MO)  
ARCHCITY DEFENDERS, INC.  
440 N. 4<sup>th</sup> Street  
Saint Louis, MO 63102  
855.724.2489  
jkutnikbauder@archcitydefenders.org  
Attorney for Plaintiffs

**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2020, the foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system on all counsel of record.

/s/ Jacqueline Kutnik-Bauder